

# MAINE STATE LEGISLATURE

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**Legislative Record**

OF THE

**One Hundred and Seventh Legislature**

(First Special Session)

OF THE

STATE OF MAINE

**1976**

KENNEBEC JOURNAL  
AUGUSTA, MAINE

## HOUSE

Monday, February 9, 1976

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Reverend Donald Henderson of Camden.

The members stood at attention during the playing of the National Anthem by the Winthrop High School Band.

The journal of the previous session was read and approved.

## Papers from the Senate

Bills from the Senate requiring reference were disposed of in concurrence.

## Non-Concurrent Matter

Bill "An Act Relating to Movement of Overwide Farm Equipment" (H. P. 1857) (L. D. 2025) which was passed to be engrossed in the House on February 4, 1976.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-397) in non-concurrence.

In the House: On motion of Mr. Carter of Winslow, the House voted to recede and concur.

## Non-Concurrent Matter

Bill "An Act Concerning the Geologist and Soil Scientist Certification Act" (H. P. 1993) (L. D. 2182) which was referred to the Committee on State Government in the House on February 5.

Came from the Senate referred to the Committee on Business Legislation in non-concurrence.

In the House:

Mrs. Clark of Freeport moved that the House recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: I maintain the position I did the other day. This bill is essentially one that is concerned with the design of government. A very similar bill appeared before the State Government Committee — almost identical, in fact, in previous years and has been dealt with. The Reference of Bills Committee recommended that it go to the State Government Committee. This House itself, the other day, voted that it go to State Government Committee, and I would urge you, therefore, to vote against the motion to recede and concur in order that we may insist.

The SPEAKER: The Chair recognizes the gentlewoman from Freeport, Mrs. Clark.

Mrs. CLARK: Mr. Speaker, Men and Women of the House: It does seem that there is some disagreement between the chambers as to where this bill would be most appropriately and properly referred. I would simply remind you that in the 106th Legislature the Committee on Business Legislation dealt with an identical bill, submitted by the sponsor, the Honorable gentleman from Wayne, Mr. Ault, who at that time presented this bill to the Committee on Business Legislation.

While I will abide by the will of this body, I do ask your support in my motion to recede and concur.

The SPEAKER: The Chair recognizes the gentlewoman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker and Members of the House: As a member of the State Government Committee, I hope you will go

along with Representative Clark. Personally, I don't want to see this bill come before our committee.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentlewoman from Freeport, Mrs. Clark, that the House recede and concur. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

73 having voted in the affirmative and 30 in the negative, the motion did prevail.

## Orders

Mr. Mulkern of Portland presented the following Joint Order and moved its passage: (H. P. 2015) (Cosponsors: Mr. Snow of Falmouth, Mr. Talbot of Portland)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Sergeant Alphonse Gendrolis of Falmouth, Maine for his Heroic Actions in the Fire at the Cumberland County Jail

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine.

The Order was read and passed and sent up for concurrence.

Mr. Mulkern of Portland presented the following Joint Order and moved its passage: (H. P. 2016) (Cosponsors: Mr. Snow of Falmouth, Mr. Talbot of Portland)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Deputy Sheriffs John Leighton and Conrad Lagrange of the York County Sheriff's Department for their Heroic Actions in the Fire at the Cumberland County Jail

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine.

The Order was read and passed and sent up for concurrence.

Mr. Mulkern of Portland presented the following Joint Order and moved its passage: (H. P. 2017) (Cosponsors: Mr. Snow of Falmouth, Mr. Talbot of Portland)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Deputy Sheriffs Wallace Nichols, Donald Copp, and Evelyn Sargent of the Cumberland County Sheriff's Department for their Heroic Actions in the Fire at the Cumberland County Jail

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride

be sent forthwith on behalf of the Legislature and the people of the State of Maine.

The Order was read.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Mulkern.

Mr. MULKERN: Mr. Speaker, Ladies and Gentlemen of the House: I thank you very much for bearing with me today. The purpose of these three joint orders is to give deserved legislative recognition to those persons whose heroic actions and quick thinking helped to avert a much larger tragedy than occurred in the early Saturday morning blaze that destroyed part of the Cumberland County Jail and resulted in the tragic loss of one inmate.

About 2:00 A.M., Saturday, January 31, Sergeant Alphonse Gendrolis of Falmouth, Maine, was returning from a basement dressing room when he smelled smoke and spotted it pouring from the padded cell of Michael Fillmore. He yelled for assistance to three other guards and pulled in the first fire alarm. Gendrolis and Deputy Leighton of the York County Sheriff's Deputy tried to pull Fillmore from the cell but were repelled by the intense heat.

Deputy Conrad LaGrange of York County and Wallace Nichols of Cumberland County raced to the cell blocks on the first and second floors through intense choking smoke. On the first floor, LaGrange lined up the inmates and holding onto each other, they broke through the smoke to an area separated from the main cell block. Wallace Nichols also lined up cell mates on the second floor and led them out of the building.

The matters were additionally complicated because the blaze melted the jail's main power line, knocking out electricity and telephone circuits, and forcing guards to manually open the electrically operated cell doors to free the inmates.

I, again, commend all of these individuals for their outstanding job and move passage of this order.

Thereupon, the Joint Order received passage and was sent up for concurrence.

Mr. Bagley of Winthrop presented the following Joint Order and moved its passage: (H. P. 2019)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Kris Stred of Winthrop State Finalist in the Lincoln-Douglas Debate Sponsored by the Bicentennial Youth Debates

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine.

The Order was read and passed and sent up for concurrence.

Mr. Lynch of Livermore Falls was granted unanimous consent to address the House.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: We will be acting on education bills within the next few minutes. We are planning to accept the committee report and table until

tomorrow to have all three funding bills in a position to be fully debated tomorrow when we act as a committee as a whole.

#### House Reports of Committees Ought Not to Pass

Mr. Bagley from the Committee on Education on Bill "An Act to Repeal the Local Leeway Provisions of the Present Education Finance Statute" (Emergency) (H. P. 1888) (L. D. 2044) reporting "Ought Not to Pass"

Was placed in the Legislative Files without further action, pursuant to Joint Rule 17-A, and sent up for concurrence.

#### Leave to Withdraw — Senate

Senator Katz from the Committee on Education reporting to the House pursuant to Joint Order (S. P. 679) on Bill "An Act to Provide that the Legislature Establish Total Cost of Education and to Provide Equal Support for all Public School Students" (Emergency) (S. P. 636) (L. D. 2009) reports "Leave to Withdraw"

Report was read and accepted and sent up for concurrence.

#### Ought to Pass in New Draft New Draft Printed

Mr. Lynch from the Committee on Education on Bill "An Act Relating to Monthly School Tax Payments by Municipal Treasurers to the Treasurer of State" (H. P. 1802) (L. D. 1961) reporting "Ought to Pass" in New Draft (Emergency) (H. P. 2018) (L. D. 2187)

Report was read. On motion of Mr. Lynch of Livermore Falls, the Report was accepted, the New Draft read once and assigned for second reading tomorrow.

#### Divided Report

##### Tabled and Assigned

Majority Report of the Committee on Education on Bill "An Act to Return to Local Control of Funding of Public Schools" (Emergency) (H. P. 1915) (L. D. 2101) reporting "Ought Not to Pass"

Report was signed by the following members:

Messrs. KATZ of Kennebec  
THOMAS of Kennebec  
BERRY of Androscoggin

— of the Senate.

Mrs. MITCHELL of Vassalboro  
Messrs. LYNCH of Livermore Falls

FENLASON of Danforth  
POWELL of Wallagrass Plt.  
BAGLEY of Winthrop  
CONNOLLY of Portland  
INGEGNERI of Bangor

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-873) on same Bill.

Report was signed by the following member:

Mr. TYNDALE of Kennebunkport

— of the House.

Reports were read.

Mr. Lynch of Livermore Falls moved that the House accept the Majority "Ought not to pass" Report.

(On motion of the same gentleman, tabled pending his motion to accept the Majority Report and tomorrow assigned.)

#### Divided Report

##### Tabled and Assigned

Majority Report of the Committee on Education on Bill "An Act to Repeal and Replace the Present School Finance Law" (Emergency) (H. P. 1873) (L. D. 2031) reporting "Ought Not to Pass"

Report was signed by the following members:

Messrs. KATZ of Kennebec  
THOMAS of Kennebec  
BERRY of Androscoggin

— of the Senate.

Mrs. MITCHELL of Vassalboro  
Messrs. TYNDALE of Kennebunkport

FENLASON of Danforth  
BAGLEY of Winthrop  
CONNOLLY of Portland  
LYNCH of Livermore Falls  
POWELL of Wallagrass Plt.  
INGEGNERI of Bangor

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Report was signed by the following member:

Mrs. LEWIS of Auburn

— of the House.

Reports were read.

Mr. Lynch of Livermore Falls moved that the House accept the Majority "Ought not to pass" Report.

(On motion of the same gentleman, tabled pending his motion to accept the Majority Report and tomorrow assigned.)

#### Divided Report

##### Tabled and Assigned

Majority Report of the Committee on Education on Bill "An Act to Revise the Laws Relating to Funding of Public Schools" (Emergency) (H. P. 1844) (L. D. 2011) reporting "Ought to Pass" in New Draft (H. P. 2020) (L. D. 2196)

Report was signed by the following members:

Messrs. KATZ of Kennebec  
THOMAS of Kennebec  
BERRY of Androscoggin

— of the Senate.

Mrs. MITCHELL of Vassalboro  
Messrs. LYNCH of Livermore Falls

FENLASON of Danforth  
POWELL of Wallagrass Plt.  
CONNOLLY of Portland  
INGEGNERI of Bangor  
BAGLEY of Winthrop

— of the House.

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Report was signed by the following member:

Mr. TYNDALE of Kennebunkport

— of the House.

Reports were read.

Mr. Lynch of Livermore Falls moved that the House accept the Majority "Ought to pass" Report.

(On motion of the same gentleman, tabled pending his motion to accept the Majority Report and tomorrow assigned.)

#### Consent Calendar

##### First Day

In accordance with House Rule 49-A, the following items appeared on the Consent Calendar for the First Day:

Bill "An Act to Clarify Provisions for County Jail and District Court Facilities in the County of Hancock" (H. P. 1819) (L. D. 1977) — Committee on Local and County Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-872)

No objections being noted, the above items were ordered to appear on the Consent Calendar of February 10, under listing of the Second Day.

#### Consent Calendar

##### Second Day

In accordance with House Rule 49-A, the following items, appeared on the Consent Calendar for the Second Day:

Bill "An Act to Clarify the Statutory Authority of the Board of Pesticide Control" (H. P. 1901) (L. D. 2088)

Bill "An Act Authorizing the Department of Mental Health and Corrections to Purchase Residential Services" (H. P. 1880) (L. D. 2055)

No objections having been noted at the end of the Second Legislative Day, the above items were passed to be engrossed and sent up for concurrence.

#### Second Reader

##### Tabled and Assigned

Bill "An Act to Include Grain in Weight Tolerances for Certain Vehicles Operated on State Highways" (H. P. 1887) (L. D. 2065)

Was reported by the Committee on Bills in the Second Reading and read the second time.

—The SPEAKER: The Chair recognizes the gentlewoman from Madison, Mrs. Berry.

Mrs. BERRY: Mr. Speaker and Members of the House: I am having an opinion from the Attorney General's Office on the definition of farm products in regard to grain. I would like to have this tabled for two days, if I could, please.

Thereupon, on motion of Mr. Farnham of Hampden, tabled pending passage to be engrossed and specially assigned for Wednesday, February 11.

#### Passed to Be Enacted

##### Emergency Measure

An Act Relating to Animal Welfare (S. P. 624) (L. D. 1978) (C. "A" S-394)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Emergency Measure

An Act to Correct Certain Inequities in the Motor Vehicle Law (S. P. 641) (L. D. 2030) (C. "A" S-395)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of same and 3 against and accordingly, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Emergency Measure

An Act Relating to Unexpended Funds for Highway Construction on Indian Reservations at Pleasant Point and Peter Dana Point (H. P. 1812) (L. D. 1971) (C. "A" H-855 and S. "A" S-396)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 129 voted in favor of same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**Emergency Measure**

An Act Relating to the Listing of Officers and Directors under the Nonstock Corporation Law (H. P. 1848) (L. D. 2017) (C. "A" H-864)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 127 voted in favor of same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**Emergency Measure**

An Act Concerning the Provision of Legal Services by Third-Year Law Students (H. P. 1842) (L. D. 2007) (C. "A" H-859 and H. "A" H-869)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker and Members of the House: This bill has been moving through the House and the Senate and is now at the stage of enactment, and as yet I have not heard one bit of debate as to what the bill does. Then, the other day, the gentleman from Standish changed it from a regular bill to an emergency measure. I wonder if someone, before we do vote on this, would tell us exactly what the bill does do and why it is an emergency?

The SPEAKER: The gentleman from Nobleboro, Mr. Palmer, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: The purpose of this bill is to change the law relating to the practice in the courts under supervision by third-year law students.

Under the existing law, a student at the University of Maine Law School is authorized to practice in the Maine Courts under supervision. A Maine student who is attending law school in another state is not allowed to practice in the Maine Courts under supervision, as the University of Maine law students are. Because the law school in Maine has such a small class, a great many law students from Maine have to attend law schools outside of the state, and what this bill will do is allow them to work in the various district attorneys' offices on the same basis that law students who are attending the University of Maine now work.

The reason for making it an emergency was so that the objectives of the legislation could go into effect right away so that students from Maine who are attending law school outside the state would be able to practice on the same basis as other students this coming summer.

The SPEAKER: The pending question is on passage to be enacted. This being an emergency measure, a two-thirds vote of the entire elected membership of the House is necessary. All those in favor of this Bill being passed to be enacted as an emergency measure will vote yes; those opposed will vote no.

A vote of the House was taken.

126 having voted in the affirmative and 51 having voted in the negative, the Bill was passed to be enacted as an emergency measure, signed by the Speaker and sent to the Senate.

**Finally Passed**

Resolve, to Adjust the Retirement Status under the State Retirement Law of Albert W. Hollowell of Owls Head (H. P. 1826) (L. D. 1987) (C. "A" H-862)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, the Resolve finally passed, signed by the Speaker and sent to the Senate.

**Orders of the Day**

The Chair laid before the House the first tabled and today assigned matter:

Joint Order Relative to Agriculture Committee reporting out a bill to abolish Maine Milk Commission, notwithstanding Joint Rule 28 (H. P. 2007)

Tabled — February 5 by Mr. Rolde of York.

Pending — Final Passage (2/3 vote necessary)

Thereupon, Mr. Cooney of Sabattus withdrew the Joint Order.

Mr. Cooney of Sabattus presented the following Joint Order and moved its passage: (H. P. 2021)

ORDERED, the Senate concurring, that the Joint Standing Committee on Agriculture is directed to report out a bill to repeal the authorization of the Maine Milk Commission to set resale prices.

The Order was received out of order by unanimous consent and read.

The SPEAKER: The Chair recognizes the gentleman from Sabattus, Mr. Cooney.

Mr. COONEY: Mr. Speaker, Ladies and Gentlemen of the House: As you know, Friday, Representative McKernan pointed out to me that I had quite possibly erred in the wording of the order that I presented at that time. I have now corrected it, corrected it so that if this legislature so sees it, it can serve not only the farmer's interest but the consumer's interest and settle this issue; I think it possible to allow us to settle it correctly.

I think we all want to protect the stability of the producer, the farmer, and it is time that we recognized that the Milk Commission not only sets all prices in the price structure and is simply incapable of doing that.

I had an interesting morning this morning as I tried to pin down the exact nature of the price increase and how the commission arrived at it. Representative Wilfong and myself took a hike over to the office building and spent a few minutes talking to Commissioner Williams who, as you know, is a member of the Milk Commission, and since the Chairman of the Milk Commission is away on an extended trip, Mr. Williams was elected by the commission to be acting chairman. It was under his guidance that the decision of last week's was made to increase the retail price of milk by 13 cents.

We determined this morning the basis on which the Maine Milk Commission made its decision last Thursday. The law states that the Maine Milk Commission shall set a price based on the lowest possible price that can be achieved by the most efficient dairy in the state, based on their cost of transportation, bottling costs and their other processing costs. That is the gist of it, in any case. The decision that was made was based on a study that was done not recently but was done in 1974 of 11 dairies in the state, and there are about 30 dairies in the state, so it was just on about one third of the dairies. It was a 1974 study, not an up-to-date study.

Then the commission, instead of taking the most efficient dairy of that study,

which happened to be Wing's Dairy in Skowhegan, and setting the price at that level, they determined that that was just unreasonably low, even though they had not investigated the other 19-odd dairies in the state, so they took the fourth lowest price, which happens to be, I guess, Grant's Dairy, and they established the resale price at that level, but, no, they just didn't establish it at that level, since the figures were 1974 figures, they determined that they must add an inflation factor in to bring the figures up to date, and they picked 8.4 percent on top of those 1974 figures.

Now, I would submit that not only the spirit but the letter of the law had been violated, that the commission, as Judge Glassman said in his decision this morning, did in fact hold hearings but they did not hold investigations. They had every right and every duty to investigate the cost of the other dairies in the state and determine what in fact is the true cost that a dairy has today, an up-to-date cost, and they didn't do it, and I guess that you and I are faced with a decision this morning, and I realize it is a tough one and I realize getting a two-thirds vote, with many vacant chairs and with many people who are still questioning it, is going to be very difficult. But you and I are faced with a question of what we as a legislature can do. We have in the last two sessions tried, I think, to keep the faith. We have tried to make the compromise between the agricultural interests and the consumer interests, and each time the commission has failed to meet the needs of the consumers. They have answered the needs of some segments of the dairy industry.

I think this particular situation clearly illustrates how they did not follow the spirit or the letter of the law; therefore, the price went up unreasonably. So, I have to ask, what action can we take, can we just leave the issue, let the courts decide it, let the commission raise the price, let the public pay, or should we now take some kind of an action and do what perhaps we should have done a long time ago? I, as one who has been in the middle, who served on the Agriculture Committee and helped write a powered milk bill in the last session, then supported the compromise this session, I feel a little betrayed, a little dismayed, at the actions of the commission. There were some pressures there and some people involved and some actions which I feel were just unwarranted, shouldn't have been allowed. The commission was led by the commissioner to make this decision, which I think is just unjustified.

I would ask you to not leave the decision to the courts, not argue about procedures here as to whether Joint Rule 28 is the method we should use. I realize that some of you say that we shouldn't just be "Willy-Nilly" presenting bills through this method, but we are not going to have a great deal of good news for the public in this special session, you know it and I know it. This is one place where I think we all know the public has an interest, one place where we might be able to assert ourselves in the public interest, and I submit the passage of this order to assist in that purpose.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker and Members of the House: I am opposed to this order and I move that it be indefinitely postponed. This would do nothing but add more confusion. I think this commission is doing their very best and is satisfying

more people than we can otherwise satisfy.

Let me tell you, I have just recently returned from a trip where there was lots of cattle, in the south and Florida and Texas, and I took particular notice, their milk was higher than here. I come from where there are a lot of farmers and you can't show me a wealthy one and a lot of them are going out of business.

Without the Milk Commission, in my opinion, it would just be a chance for the big fish to eat up the little fish. Some of the big farmers would soon take over. I would like to see the little farmer stay in business; I think that is the backbone of Maine and that is where we get our tax dollars, a lot of it, and we are going to have to pat them on the back a little extra before we get out of here.

I do hope we will show good judgment in trying to keep the Milk Commission and I know they will do their very best. Without it, we would be in a worse turmoil.

While I am on my feet, let me tell you, the people who process milk, their costs have gone up a lot more than 8 percent. For instance, the cartons that they put milk in have nearly doubled in the last few years and a lot of their things, strainers and other materials they use, the increase has been astronomical. I think this Milk Commission that has allowed this small raise won't nearly take care of the extra costs of just grain alone, even harvesting the hay, when they try to get the hay in, everything is more than 8 percent higher, it is many more times higher than that. I think the people voting on this this morning don't know enough about it and I think the Milk Commission has made some study and is trying to do what is right. Doing away with the Milk Commission, I promise you, it would be the worst thing we have ever done and milk would be higher. These poor people you are trying to help get cheaper milk, they might have it for three months or six months, but as soon as the big fish gets hold, the poor people will pay.

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker and Members of the House: I didn't quite understand everything, and I would like to ask Mr. Cooney of Sabattus if this means both wholesale and retail prices? Would they govern both wholesale prices to the dealer and the dealer prices?

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: I think the record will show, throughout the debate on this measure, in the last year or two I have consistently voted to strip the Milk Commission of its right to set retail prices, although I have not voted to do away with the Milk Commission.

However, this morning I rise to oppose this order and the reasons are very simple. We all know this morning this matter is before the court. We do not truly have an emergency situation. We do not know how the courts are going to resolve the problem. We are going to be here a few more weeks, so in case it isn't resolved and settled satisfactorily, we will have ample time to review consideration of an order such as this.

At this particular time, I believe we would be in violation of Rule 28 because there is no emergency as long as the matter is before the courts. I would hope that we wouldn't clutter up our docket at

this time with the order in view of that situation.

The SPEAKER: The Chair recognizes the gentleman from Poland, Mr. Torrey.

Mr. TORREY: Mr. Speaker, Ladies and Gentlemen of the House: I realize this is a very controversial matter and I rise this morning to express my sincere opposition to this order. Certainly, it is a confusing issue, the fact the announcement of the decision by the commission and then the announcement of the judge's ruling makes the matter very complex, but I think we ought to weigh it and give us a little more time and see if it possibly can't be straightened out. I certainly agree with my good friend, House Minority Leader, Mr. Palmer, that this is not an emergency.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I devoted a great deal of my time last session to the compromise milk legislation which was designed to retain the commission and to create a situation where the commission was establishing the producer price at a price sufficient to protect the Maine producers. The statute, as drafted, clearly directed the commission to establish the prices for the dealers at the lowest price at which milk purchased from Maine producers could be processed and transported within the State of Maine. The decision of the Maine Milk Commission, the most recent decision, in my opinion, clearly violates the intent of that compromise legislation.

The first order which was issued by the commission on January 1 carried out that intent fully in my opinion. It increased the producer price and it also lowered the dealer price so that for the first time Maine dealers would actually find themselves in competition.

I note that the chairman of the commission was out of state when the second order was issued, and it is my feeling that this second order had completely reversed the policy of the commission established in the first order.

I know this matter is currently before the courts, and I anticipate that the most recent decision of the commission may well be reversed by the courts, but I think that this legislature should have a vehicle before it so that if the intent of the legislation which was passed last time is not carried out by the commission, we are in a position to act once and for all to do away with the dealer price-setting power.

The legislature has tried to compromise this issue for the last two sessions and I, myself, spent a great deal of time trying to get this commission to represent the consumer and the producer and to put the dairies in competition. It puts the commission in a difficult position and I can understand the process they went through in arriving at this order, but I think we need a vehicle to take care of this problem if it is not resolved shortly as a result of a litigation.

I will support this order and I would urge all of us who voted for the compromise last time to support this order in order to have a vehicle for this legislature to act, if it becomes necessary.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I have been listening to the debate this morning and find it very interesting. The gentleman

who just spoke to you was correct in pointing out that the January decision of the commission did lower the price. I think we all should realize that the price to the producers has been rising steadily since last fall. A couple times there have been injunctions asked against the increases that the commission has allowed and these increases have been held up for ten days to two weeks but eventually they were always allowed. So, in the action on January 1, the commission did bring the retail prices down from a decision that they had made on December 8, in the face of the fact that the price to the producers was still going up.

Ladies and gentlemen, I am sure you all know what it means to be a boiler and heat up the boiler and eventually if you don't let off a little steam, something is going to burst. This particular situation here is that the price to the producers, which is controlled by the federal market, has been going up since October, it is still going up, it went up on the 13th of December, went up again on January 1 and in February it also went up again. So the situation is that the producer price has been going up but the retail price has been held onto.

I am not here to make a brief for the actual amount of the change that was made this time, but I would remind you folks that the commission has only been on board since October. I wasn't aware of it, but the gentleman mentioned the fact that the chairman wasn't even there for this meeting. I certainly think we should give this commission more time to learn the ropes of the game. I can't see where this is anything we should be concerned about or sell out or anything else from the action of the legislature last time.

Finally, let me point out that lack of control is no panacea. On February 1, a week ago Sunday, in New Hampshire, Conway, at the A & P store the price of Hood's true farm milk was 93½ cents a gallon. Compare that to what it is in Maine under the control situation. Hood's homogenized was 48 cents a quart at the same time the Maine price was 40½ cents a quart. Abbott's Dairy, which is a private dairy, was charging another penny in the A & P store in Conway, New Hampshire, when our price was still controlled at 40½ cents a quart. So it all depends, ladies and gentlemen, on what people you are talking about that are going to be helped and protected.

It is highly possible that on a highly commercialized route from Massachusetts up through the lower part of New Hampshire and Maine that a dairy will be able to put in its own stores and sell milk as a loss leader, which they are presently doing. But the minute you get off that highway, this does not happen, as indicated by these figures that I just gave you from Conway, New Hampshire, and I am sure when you talk about Rangeley, Maine, Bingham and places north of Augusta, you are going to be paying a great deal more for milk unless the retail price is controlled. So I urge you at this point in time to kill this measure, get rid of it right now.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker and Members of the House: I think perhaps the gentleman from Enfield, Mr. Dudley, was in error in asking that this bill ought to be indefinitely postponed, which takes a majority vote. A parliamentary inquiry,



sir, I think the other day we did have someone withdraw that motion in order that we might simply vote. It takes two thirds to pass the order. I think he would be better off to withdraw his motion.

The SPEAKER: If the gentleman is posing a parliamentary question, the Chair at this point has not determined whether or not passage of the order is based on Joint Rule 28.

The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker, if that were the case, I would be glad to withdraw the motion. I just want to make sure this is not before us again.

Mr. Speaker, do we need two thirds? Put it the other way, if I withdraw the motion, then do we need two thirds?

The SPEAKER: The Chair would rule that pursuant to the information available in History and File Disposition of Legislative Documents and Papers compiled by the Legislative Finance Office, the bill which dealt with retail prices, "An Act to Repeal Milk Control Prices at the Retail Level," L. D. 267, which had been introduced by the gentleman from Portland, Mr. LaPointe, cosponsored by the gentleman from Buxton, Mr. Berry, the gentleman from Cape Elizabeth, Mr. Hewes, and the gentleman from Bangor, Mr. Kelleher, that particular bill became law under Public Law Chapter 517 and, therefore, that bill was not rejected by the Legislature and therefore the Chair would rule that this order needs a majority vote to receive passage.

The SPEAKER: The Chair recognizes the gentlewoman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, may I inquire into the disposition of Representative Connolly's bill of Portland which called for abolishing the Maine Milk Commission?

The SPEAKER: The Chair would answer that that bill which dealt with abolishing the Maine Milk Commission, the Maine Dairy Council, the Maine Milk Tax Committee, transfer of function of the Maine Milk Commission to the Commissioner of Agriculture to provide for the monitoring of butterfat and bacteria tests, etc., etc., was indefinitely postponed, that the matter is not related.

The Chair recognizes the gentleman from Easton, Mr. Mahany.

Mr. MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: I merely rise to oppose the order. I opposed the order Friday and gave you my reasons and I have the same reasons to oppose this one. I think Mr. Morton and some of the others who oppose the Order have given you the fundamentals of it. I hope you oppose this.

Mr. Norris of Brewer requested a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. Those in favor of a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Enfield, Mr. Dudley, that House Paper 2021 be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Ault, Bagley, Berry, G. W.; Birt, Bowie, Byers, Call, Carpenter,

Conners, Cox, Curran, R.; DeVane, Doak, Dudley, Dyer, Farnham, Fenlason, Finemore, Fraser, Garsoe, Gould, Gray, Hennessey, Hinds, Hunter, Hutchings, Immonen, Kauffman, Kelley, Laverty, Leonard, Lewin, Lewis, Littlefield, Lizotte, Lovell, Lunt, MacLeod, Mahany, Martin, R.; Maxwell, McBreairty, McKernan, Mills, Miskavage, Morton, Palmer, Peakes, Perkins, T.; Peterson, P.; Pierce, Quinn, Rideout, Rollins, Shute, Silverman, Snowe, Sprowl, Strout, Stubbs, Susi, Teague, Theriault, Torrey, Tozier, Twitchell, Usher, Walker, Webber.

NAY — Bachrach, Bennett, Berry, P. P.; Berube, Blodgett, Boudreau, Burns, Bustin, Carey, Carter, Chonko, Clark, Connolly, Cooney, Cote, Curran, P.; Dam, Davies, Dow, Drigotas, Durgin, Farley, Faucher, Flanagan, Goodwin, H.; Goodwin, K.; Greenlaw, Hall, Henderson, Hewes, Higgins, Hobbins, Hughes, Ingegneri, Jackson, Jacques, Jalbert, Jensen, Joyce, Kany, Kelleher, Kennedy, Laffin, LaPointe, LeBlanc, Lynch, MacEachern, Martin, A.; McMahon, Mitchell, Morin, Mulkern, Nadeau, Najarian, Norris, Pearson, Pelosi, Perkins, S.; Peterson, T.; Post, Powell, Raymond, Roide, Saunders, Snow, Spencer, Talbot, Tarr, Tierney, Truman, Tyndale, Wagner, Wilfong, Winship.

ABSENT — Carroll, Churchill, Curtis, Gauthier, Mackel, Smith.

Yes, 70; No, 74; Absent, 6.

The SPEAKER: Seventy having voted in the affirmative and seventy-four in the negative with six being absent, the motion to indefinitely postpone does not prevail.

Thereupon, the Order received passage.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, having voted on the prevailing side, I now move reconsideration and hope you all vote against me.

The SPEAKER: The gentleman from Brewer, Mr. Norris, moves the House reconsider its action whereby this Order received passage. All in favor will say yes; those opposed will say no.

A viva voce vote being taken, the motion did not prevail.

Sent up for concurrence.

The Chair laid before the House the second tabled and today assigned matter:

House Report — "Ought to Pass" in New Draft under New Title: "An Act Concerning the County Commissioner District in Penobscot, Kennebec, Lincoln, Franklin and Knox Counties" (Emergency) (H. P. 2011) (L. D. 2186) — Committee on Local and County Government on Bill "An Act Concerning the Transitions to County Commissioner Districts in Knox County" (Emergency) (H. P. 1867) (L. D. 2038)

Tabled — February 6 by Mr. Blodgett of Waldoboro.

Pending — Acceptance of Committee Report.

Thereupon, the Report was accepted, the New Draft read once and assigned for second reading tomorrow.

#### (Off Record Remarks)

On motion of Mr. Shute of Stockton Springs,

Adjourned until ten o'clock tomorrow morning.